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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

E.K. WADE,

Plaintiff,

v.

ELAINE CHAO, SECRETARY OF
LABOR, ET AL.

Defendant.

Consolidated Case No. C 08-00001 JSW /
EDL

**EXHIBIT C TO THE DECLARATION
OF MELISSA K. BROWN IN SUPPORT
OF THE FEDERAL DEFENDANT'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR SANCTIONS**

Date: September 30, 2008
Time: 3:00 p.m.
Place: Courtroom E, 15th Floor
Honorable Elizabeth Laporte

EXHIBIT C

Brown, Melissa K. (USACAN)

From: Ekpeactime@aol.com
Sent: Tuesday, August 19, 2008 6:37 PM
To: Brown, Melissa K. (USACAN)
Subject: Clarification....

Ms. Brown:

After 5 agonizing days and 21 hours of working through the 2 boxes of Defendant's Responses to Plaintiff's Request for Production of documents, Plaintiff finally found your manila envelope, which was at the bottom of the un-addressed box completely hidden from view. Upon receipt of the 2 boxes, Plaintiff used common sense and opened the addressed box first. Upon finding no guide, tabs, or anything (in all 4 sides of the boxes), Plaintiff was not given a reasonable opportunity to match the required Requests with your Responses. Upon the realization of this dilemma, Plaintiff, though upset and confused, quite naturally began the arduous task of working both boxes (the addressed, then the un-addressed) so Plaintiff could match your original Responses to Plaintiff's Request for Production of Documents.

Therefore, after 5 days of work, Plaintiff noticed the manila envelope at the bottom of the un-addressed box. Plaintiff is not being rude, but surely you can see that Plaintiff had no other alternative - once he realized that there was no guide, reference, or anything visible to which he could relate to. Both boxes were packed with papers on their sides on top of your manila envelope.

When Plaintiff and you had the awful conversation, wherein you stated emphatically that you had properly placed the referenced materials in the box, Plaintiff was being quite reasonable (under the circumstances), for he honestly could not see, and in retrospect, could not have been able to see what was hidden from view. Common sense should tell you that, when Plaintiff looked in ALL sides of both boxes, he was not suppose to find your manila envelope. To make matters even worse, you replaced your original Responses with amended Responses, which meant that Plaintiff had to go back and undo the 21 hours of work because of the unknown amendments. Therefore, Plaintiff will ask the Court for 42 hours of sanctions. If this DOES NOT clarify things for you, then I'm sorry. But, Plaintiff did not err - you did.

E. K. Wade

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